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SENSITIVE  
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BRUSSELS PLEASE PASS TO USEU FOR ACTION

E.O. 12958: N/A

TAGS: [EUN](#) [FR](#) [PREL](#) [PTER](#)  
SUBJECT: U.S.-EU DATA PROTECTION PRINCIPLES: DEMARCHE  
REQUEST

**11.** (U) Summary: Embassy Paris is requested to approach host government officials at the appropriate level to seek information regarding the upcoming COREPER discussion on November 12 of the U.S.-EU High Level Contact Group on data protection principles, and more generally of the French EU Presidency,s expectations of U.S.-EU cooperation in the area of Justice and Home Affairs (JHA). USEU may consider delivering similar points to the French Permanent Representation in Brussels, and Commission and Council Secretariat counterparts, as appropriate. End Summary.

**12.** (SBU) On November 4, USEU representatives met with European Commission and French Permanent Representation officials in Brussels to review preparations for the upcoming U.S.-EU Justice and Home Affairs Ministerial, scheduled on December 12 in Washington. The U.S. was informed that the EU intended to raise the status of U.S.-EU discussions on data protection principles - the High Level Contact Group (HLCG) - during the COREPER meeting on November 12. Furthermore, the Commission intends to place on hold a U.S. cooperation agreement with Frontex.

**13.** (SBU) The U.S. is concerned that, absent a significant narrowing of remaining differences on the draft text of the data protection principles and draft Ministerial statement being discussed in the HLCG, a discussion in COREPER may be counterproductive, perhaps even designed to slow down even further the negotiations. This concern is amplified if France is not fully behind the U.S. position to issue a political statement at the Ministerial that would constitute a political framework that demonstrates a common understanding of the necessary privacy and data protection safeguards associated with law enforcement and public security (Third Pillar) data transfers. The Department wishes to understand France,s intentions at next week,s COREPER discussion, and what France sees as key deliverables for the upcoming Ministerial meeting.

**14.** (U) Demarche request: Embassy Paris is requested to approach appropriate French officials to express our surprise and concern about what we fear may be substantial obstacles to key JHA deliverables for the U.S.-EU Justice and Home Affairs Ministerial on December 12, 2008. Failure to make progress on the issues identified below would result in no substantive JHA achievements during the French Presidency. USEU may consider delivering similar points to the French Permanent Representation in Brussels and to Commission and Council Secretariat officials as appropriate. Responses are requested via front channel cable by Monday, November 10. Posts may draw upon the following suggested points:

-- Transatlantic cooperation, including on law enforcement and counterterrorism matters, remains a top USG priority. As we look to preserve and expand such cooperation, it is essential that we bring to a successful close the work of the High Level Contact Group to develop a framework of common understanding of the necessary privacy and data protection

safeguards associated with law enforcement and public security (Third Pillar) data transfers.

-- We are concerned that EU participants in the HLCG may have different expectations and intentions for what can be resolved by the December 12 Ministerial. We therefore ask for the French to please explain the objective in seeking COREPER guidance on November 12 with regard to the HLCG. We believe this could be premature as EU experts have not yet responded to the U.S. revisions to the initial draft text. Assuming there may still be some expert-level questions for clarification, is it perhaps premature to discuss at COREPER level?

-- We are surprised and disturbed to learn that the Commission appears to be holding up progress on the U.S.-Frontex working arrangement, linking further progress here to the HLCG process.

-- Our common goal is a successful JHA Ministerial, but these developments have cast in doubt the likelihood of achieving two of the most significant deliverables for that event.

**¶15.** (U) Department appreciates posts, attention to this request. Please slug responses for EUR/ERA Alessandro Nardi.  
RICE